PATENT

CERTIFICATE OF MAILING

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-14501.

5-23-05

Date:

Himanshu S. Amin

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Applicant(s): Federico Garcea, *et al.*

Serial No: 09/710,172

Filing Date: November 10, 2000

Examiner: Haresh N. Patel

Art Unit: 2154

Title: SYSTEM FOR GATHERING AND AGGREGATING OPERATIONAL METRICS

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. §1.131

Dear Sir:

The undersigned declare as follows:

We are the inventors of the above-identified patent application. The subject matter claimed in the above-identified patent application was reduced to practice in the United States by a date prior to June 26, 2000, which is the effective date of Salzberg, *et al.* U.S. Publication No. 2003/0086536, KPMG Consulting Inc.

Exhibits A – C contain copies of screen shots taken from computers running one or more beta versions of the Microsoft product Application Center 2000 as well as documents outlining some of the features of this software. As indicated by these documents, the beta software was functional to gather and aggregate operational metrics across a cluster of servers and to display the system-wide operational metrics as a unified result as if the cluster were a single machine. The screen shots show that software having this functionality was implemented on computers at Microsoft at least as early as February 26, 2000 and again on June 3, 2000.

We hereby declare that all statements made in this Declaration are true to the best of our knowledge and belief.

Respectfully submitted,

_____   _____
Federico Garcea   Date

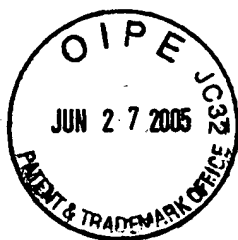_____   _____
Michael S. Murstein   Date

_____   _____
Roger W. Sprague   Date

_____   _____
Alexander M. Sutton   Date

PATENT

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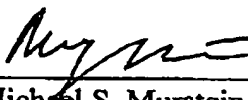
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_____   _____
Federico Garcea   Date

_____   4/29/2005
Michael S. Murstein   Date

_____   4/29/2005
Roger W. Sprague   Date

_____   4-29-05
Alexander M. Sutton   Date

Michael W. Thomas   5/2/2005

Michael W. Thomas   Date

Giedrius Zizys   4/29/2005

Giedrius Zizys   Date